

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5482 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE H.L.GOKHALE Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No.
2. To be referred to the Reporter or not? No.

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3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

PURSHOTTAMBHAI PRANJIVANDAS

Versus

APPELLANT AUTHORITY AND ULC TRIBUNAL

Appearance:

MR MI HAVA for Petitioners
MR MA BUKHARI ASSTT.GOVERNMENT PLEADER
for Respondent No. 1

CORAM : MR.JUSTICE H.L.GOKHALE

Date of decision: 26/08/97

ORAL JUDGEMENT

Rule. Mr. Bukhari, AGP, waives the service of Rule on behalf of the respondents. The main grievance made by Mr. Hawa, learned counsel for the petitioners is that it was his appeal which was being heard by the appellate authority and in that appeal, certain

observations prejudicial to the appellants came to be made in Paragraph 4 of the impugned order dt. 30th January, 1997. He submitted that in case the State is aggrieved by the order of the competent authority, it was for the State to file an appeal or revision. He is, however, agreeable to go back to the appellate authority. He also relied upon a judgment of the Division Bench of this court rendered in Special Civil Application No.4156 of 1988 decided on 17th February, 1995 which laid down that in such a situation, the appellate authority is expected to hear the party concerned before passing any such prejudicial order. In that view of the matter, the impugned order is interfered with only for this limited purpose namely with respect to the observations made in Para 4 of the order. The appellate authority will rehear the petitioners. This rehearing will be deemed to be an appeal by the State to that extent. Thereafter the appellate authority may pass an appropriate order after considering the submissions made by both the sides. The appellate authority will hear the matter on this aspect and decide preferably within three months from the date of the receipt of the writ of this Court. Rule is made absolute accordingly to the limited extent as aforesaid, with no order as to costs.

(ccs)